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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,387	09/18/2003	Dennis Brandon	28396-6	7522

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NASHVILLE, TN 37201

EXAMINER
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KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/666,387

Applicant(s)

BRANDON, DENNIS

Examiner

Árpád Fábián Kovács

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-37 and 40 is/are rejected.
- 7) ☒ Claim(s) 38 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-21, 23, 25-28, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Nannen (5906051).

In re claim 20:

Nannen discloses:

a spindle housing & shaft & a carrier for a cutting element (col. 3, ln. 49-52);

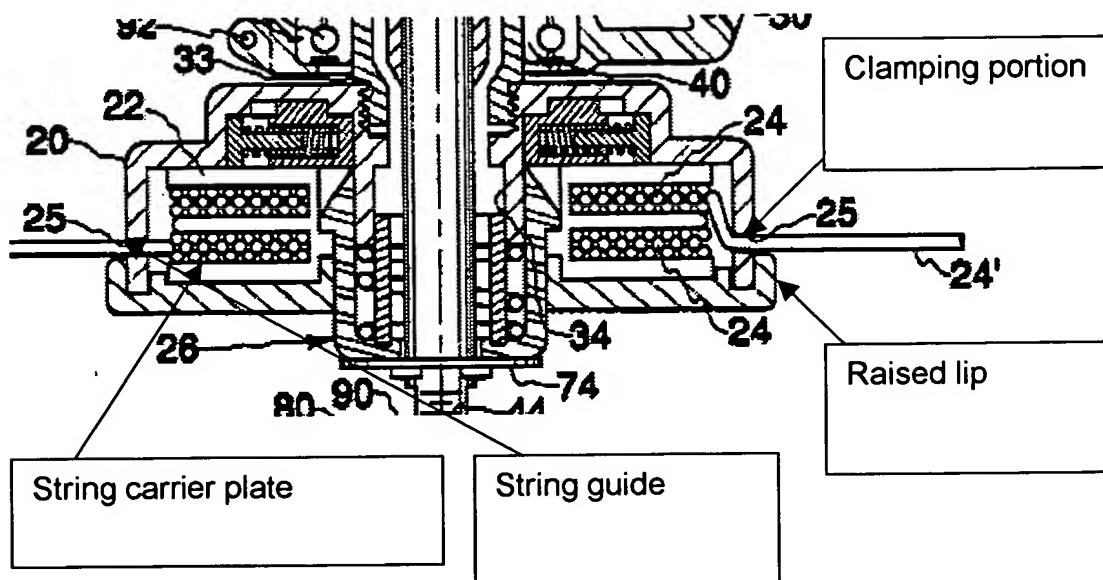
a mow ball rotatably connected to one end of the shaft (ground guide 50, col. 4, ln 64-67, col. 5, ln 1-4);

in re claim 21:

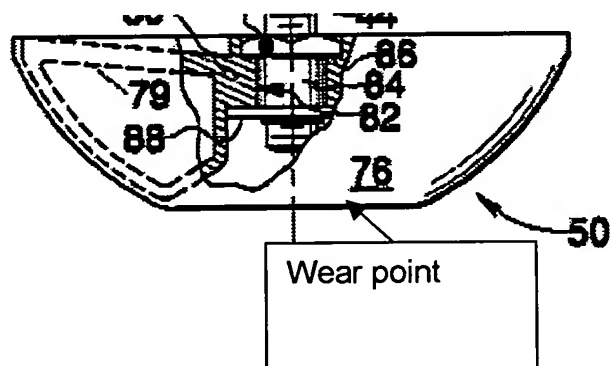
a string carrier plate, string guide, & strong holder (see fig 1, at spool ref 22, at drum ref 20);

in re claims 23, 27-28, 30:

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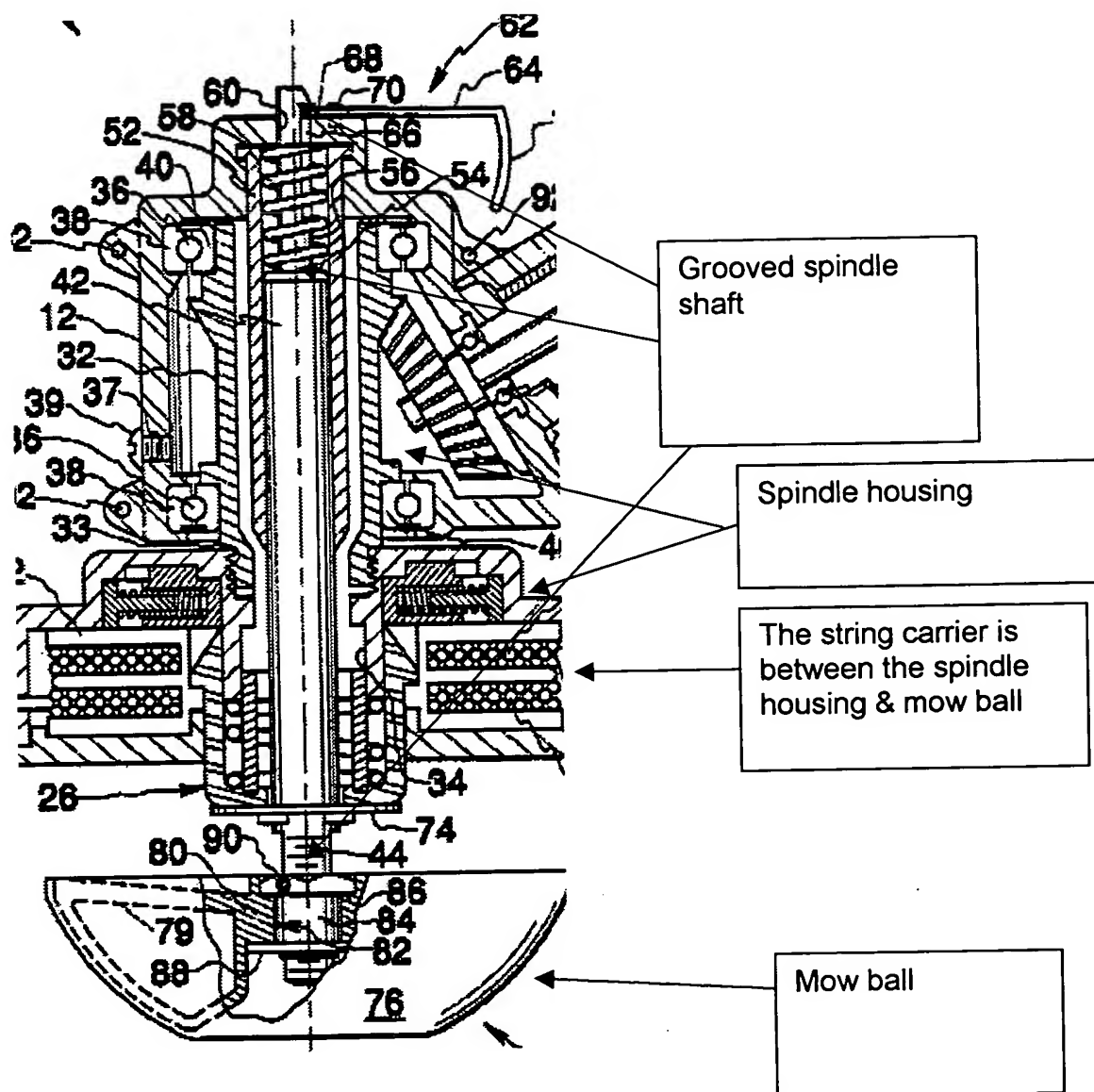


in re claim 25:



in re claim 26:

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3. Claims 20-21, 23, 25-28, 30, 33-36, 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Harb (6052974).

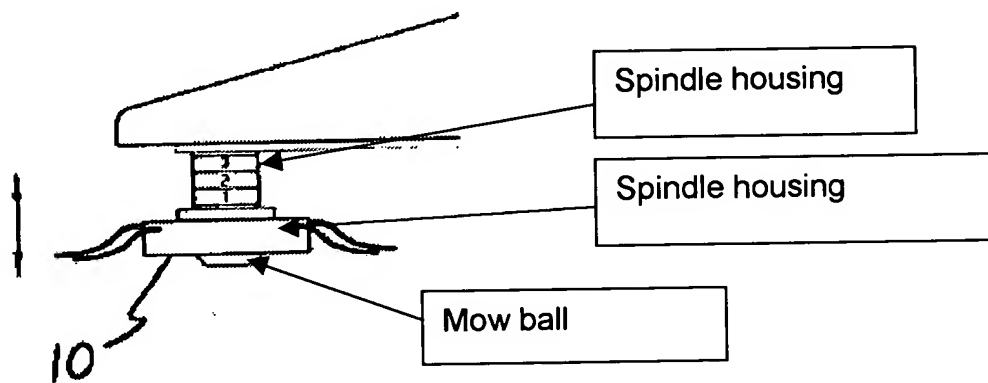
Harb discloses:

In re claims 20, 25, 26:

a spindle housing (10);

a shaft or hub (12) rotatably coupled to the spindle housing;

a mow ball is shown at the lower end of the hub, however the rotatable connection between the hub/shaft to the mow ball is not clearly shown;



a string carrier assembly (14) connected to the spindle shaft/hub intermediate the spindle housing and the mow ball (see fig 3);

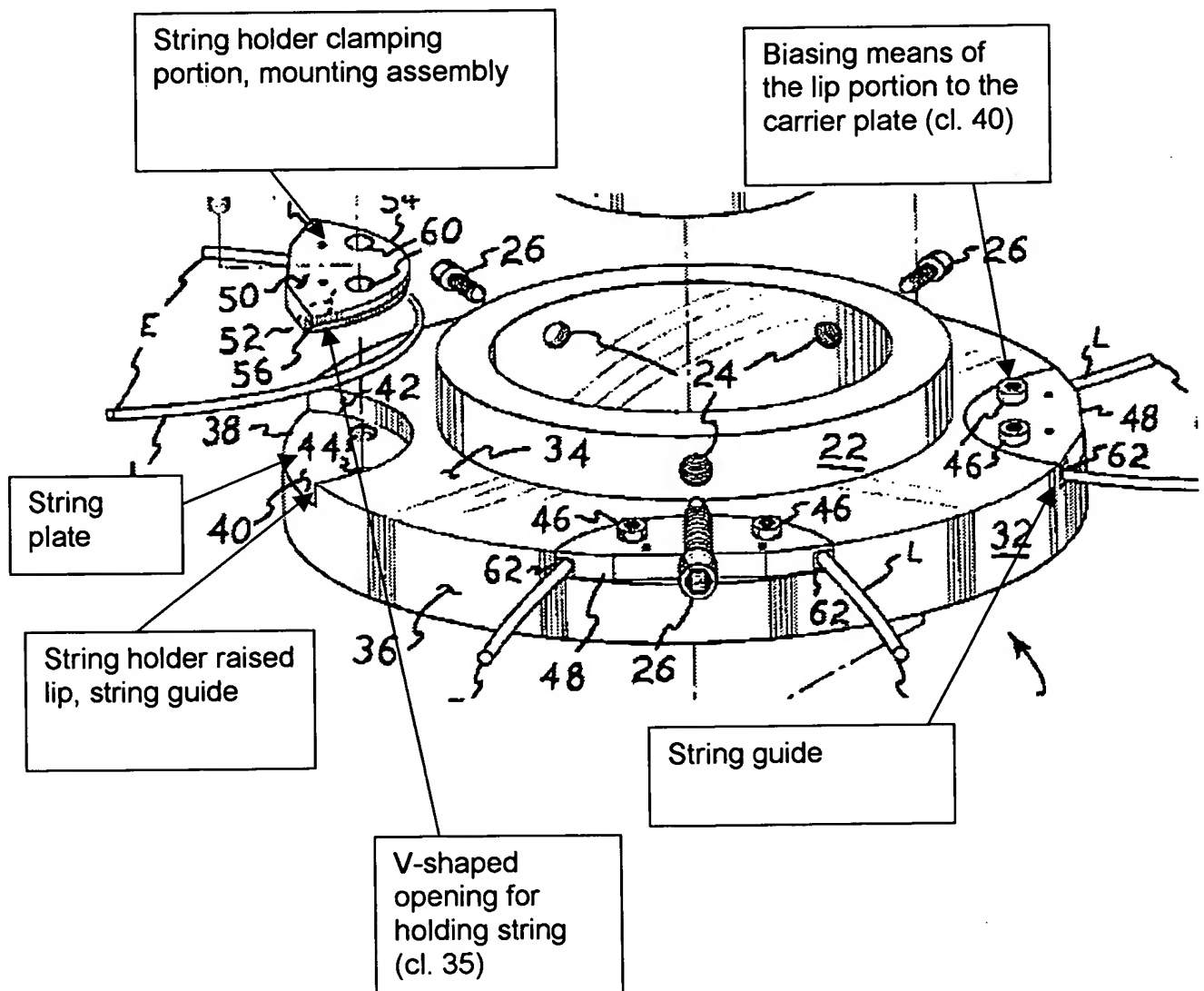
In re claims 21-22, 27-28, 30, 35, 40:

**a string carrier plate, string guide, & strong holder: raised lip & clamping portion:**

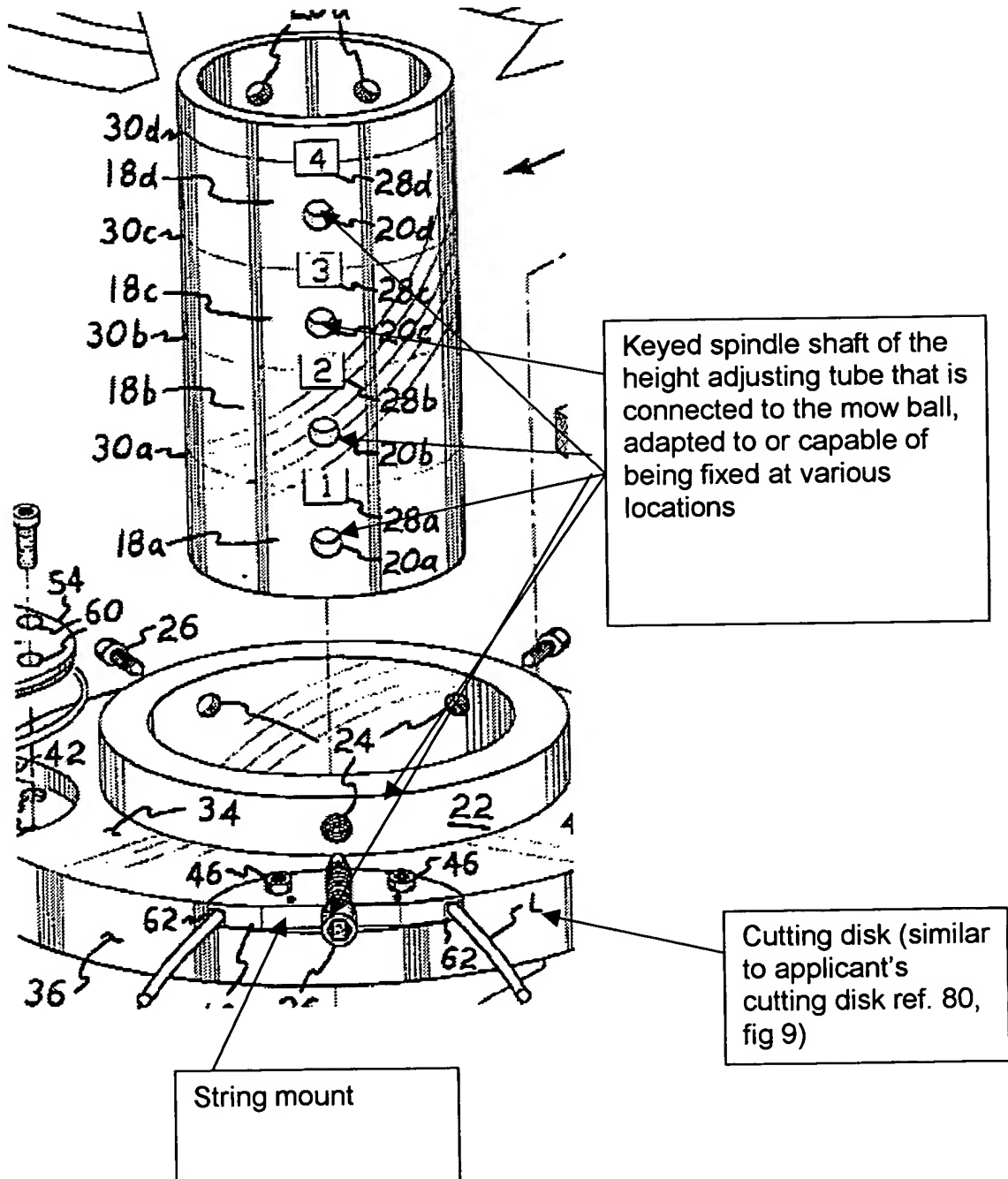
the string holder includes a raised lip portion (the upper part of 48) and a clamping portion (56);

the carrier assembly includes a mounting assembly (45) and a carrier plate (32);

the plate includes a string guide (between 56 & 42) and a string holder (48);



in re claims 33-34:





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4. Claims 20-30, 32-37, 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Sweet (4205439).

Sweet discloses (it is noted that certain elements are already met by the prior art shown above, the elements not shown by Harb & Nannen will be focused on):

In re independent claim 20:

Sweet discloses a spindle housing (generally shown on fig 21, ref 139);

a spindle shaft (154);

a pulley (167) at one end of the shaft (see fig 13);

a mow ball (see the lower part of ref. 251, where the actual ball shape is shown) rotatably connected to a second end of the spindle shaft (see fig 22, at the second end of the shaft at ref. 158);

a string carrier plate (292) connected to the spindle shaft intermediate the spindle housing and the mow ball (see fig 21);

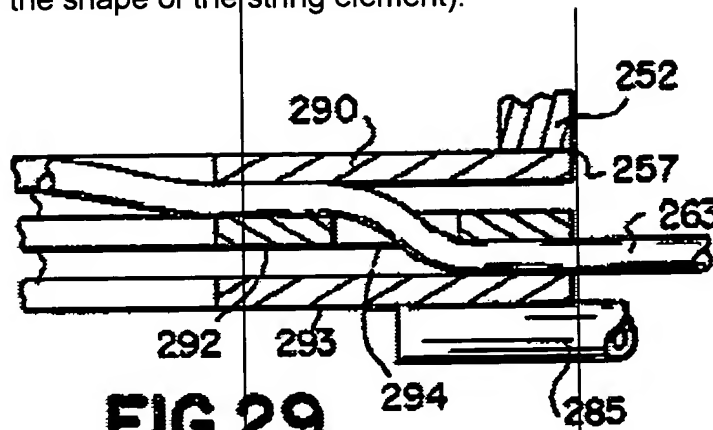
in re claims 21, 23, 27-28, 30, 36:

the plate includes a string guide (294) and a string holder (293 or 290; also see col. 11, lines 53-59), raised lip portion, a clamping portion (generally shown in fig 27), v-shaped openings for holding string (fig 22, near ref 257);

in re claim 22, 29, 40:

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as best shown on fig 29, the design choice shape of the holder is s-shaped  
(based on the shape of the string element).

**FIG. 29.**

Holder is shaped  
between this  
area, raised lip  
shown in biased  
state (cl. 40)

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in re claims 24, 32:

a pulley (167) connected to a second of the spindle shaft (fig 13);

in re claim 25:

wear point (155);

in re claim 26:

the spindle shaft is grooved & intermediate the spindle housing & mow ball (fig 13);

in re claims 33, 37:

as best shown in fig 13, the spindle shaft is keyed, comprising a height adjustment tube (adjusting via ref 269) connected to the mow ball & to a cutting assembly (75), wherein the mount is threaded, the height adjustment tube also threaded on the exterior surface (fig 27);

in re claim 34:

a string mount (fig 26) and a cutting disk (ref 251, compare that with applicant's "cutting disk" ref 80, fig 8);

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5. Claims 20, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Watrous (2669826).

Watrous discloses that a spindle shaft, string carrier assembly have a mow ball removable wear point (fig 4, ref 45).

***Double Patenting***

6. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

7. Claims 20-24, 26-31 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Patent No. 6666009. This is a double patenting rejection.

***Allowable Subject Matter***

8. Claims 38-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 20-40 have been considered but are moot in view of the new ground(s) of rejection.

**10.** It is noted that claims 38-39 describe a height adjustment mechanism (class 56, subclass 276), upon filing a new independent claim (including base claims), a restriction requirement will be issued.

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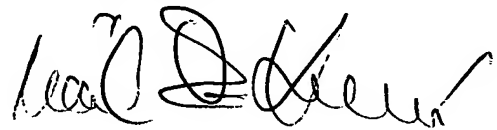
**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Raymond.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács  
Primary Examiner  
Art Unit 3671

ÁFK